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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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JERRIES SOUSOU and VIOLETTE SUSU,

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Plaintiffs,

No. C 18-00135 WHA

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v.

Related to:

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BAYVIEW LOAN SERVICING, LLC,
THE BANK OF NEW YORK MELLON
fka THE BANK OF NEW YORK, AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWALT, INC.
ALTERNATIVE LOAN TRUST 2005-82,

No. C 17-05879 WHA

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Defendants.

**ORDER VACATING
JULY 5 HEARING
AND STAYING CASE**

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After voluntarily dismissing their own case in December 2017, plaintiffs Jerries Sousou and Violette Susu recommenced this wrongful foreclosure action on January 8, 2018. Plaintiffs named Bayview Loan Servicing, LLC and The Bank of New York Mellon as defendants. On January 31, plaintiffs gave notice that they had initiated proceedings in bankruptcy court. An order thereafter stayed this action pending resolution of the parallel bankruptcy court proceedings. On February 20, defendants gave notice that the bankruptcy action was dismissed due to plaintiffs' failure to comply with an order from the bankruptcy court. The stay on this action was accordingly lifted. Plaintiffs had filed an application for a temporary restraining order on January 16 and an order denied plaintiffs' application on February 22 after the stay was lifted (Dkt. Nos. 1, 16–20).

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1 On March 12, defendants gave notice that plaintiffs' bankruptcy case had been
2 reopened. A subsequent order stayed the instant action for a second time. On April 26,
3 defendants gave notice that plaintiffs' bankruptcy case had been dismissed, as plaintiffs had
4 again failed to comply with a bankruptcy court order. A subsequent order again lifted the stay
5 on this action. Defendants moved to dismiss this action and the hearing on the motion to
6 dismiss was set for July 5. On June 1, however, defendants again gave notice that plaintiff
7 Jerries Sousou had filed for bankruptcy. Defendants asserted in this notice that they intended to
8 promptly move for relief from the automatic stay in the bankruptcy court. Defendants failed to
9 promptly move for any such order. When the undersigned judge requested clarification on this
10 situation, defendants' counsel produced a declaration stating that she had not been able to
11 secure documentation from her client that was necessary to move for relief from the automatic
12 stay (Dkt. Nos. 21–27, 29–30).

13 In light of the automatic stay by reason of plaintiffs' bankruptcy action, the July 5
14 hearing on defendants' motion to dismiss is **VACATED**. This is done without prejudice to
15 refiling the motion to dismiss, given the possibility that defendants' counsel will be able to
16 obtain the necessary documents from her client and move for relief from the automatic stay.

17 If defendants obtain such relief, please advise the Court and the hearing on defendants'
18 motion will be reset. In any event, a case management hearing is **SET for AUGUST 16 AT
19 11:00 AM.**

21 **IT IS SO ORDERED.**

23 Dated: June 14, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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